

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JOSE PENA,

Petitioner,

CASE NO. 2:08-cv-195

JUDGE SMITH

MAGISTRATE JUDGE ABEL

v.

DEBORAH COOPER, Warden,

Respondent.

OPINION AND ORDER

On April 8, 2009, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. 2254 be dismissed. Petitioner has filed objections to the Magistrate Judge's recommendations. Petitioner objects to the Magistrate Judge's recommendation of dismissal of claims three and four on the merits. He again raises all of the same arguments he previously presented.

Pursuant to 28 U.S.C. §636(b), this Court has conducted a de novo review of the Magistrate Judge's *Report and Recommendation*. For the reasons already detailed therein, petitioner's arguments are not persuasive. This Court likewise concludes that petitioner has failed to establish that the state court's decision rejecting his claims was an contrary to or an unreasonable application of federal law as determined by the United States Supreme Court or resulted in a decision that was based on an unreasonable determination of the facts. 28 U.S.C. §2254(d). Petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

**IT IS SO ORDERED.**

\s\ George C. Smith  
GEORGE C. SMITH  
United States District Judge